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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-939

12 **AUBRA DIANE SANDLER**
13 **17278 Santa Barbara Street**
14 **Fountain Valley, CA 92708**

A C C U S A T I O N

15 **Registered Nurse License No. 609769**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about November 25, 2002, the Board of Registered Nursing issued Registered
23 Nurse License Number 609769 to Aubra Diane Sandler (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
3 to the qualifications, functions, and duties of the licensee in question.

4 As used in this section, "license" includes "certificate," "permit," "authority,"
5 and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed nurse or
8 deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the
10 following:

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12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
14 the conviction shall be conclusive evidence thereof.

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16 10. Section 2762 of the Code states:

17 In addition to other acts constituting unprofessional conduct within the meaning
18 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
19 licensed under this chapter to do any of the following:

20 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
21 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself,
22 or furnish or administer to another, any controlled substance as defined in Division 10
23 (commencing with Section 11000) of the Health and Safety Code or any dangerous
24 drug or dangerous device as defined in Section 4022.

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26 (b) Use any controlled substance as defined in Division 10 (commencing with
27 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
28 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COSTS

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

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1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 DRUGS

4 14. Dilaudid is the brand name for hydromorphone, a Schedule II controlled substance
5 pursuant to Health and Safety Code section 11055(b)(1)(J) and a dangerous drug pursuant to
6 Code section 4022. Dilaudid is a narcotic pain reliever and a potent analgesic drug of the opioid
7 class. It is a derivative of morphine used to treat moderate to severe pain.

8 15. Morphine/Morphine Sulfate is a Schedule II controlled substance pursuant to Health
9 and Safety Code section 11055(b)(1)(L) and a dangerous drug pursuant to Code section 4022.
10 Morphine is used to treat mild to moderate pain.

11 FIRST CAUSE FOR DISCIPLINE

12 (August 31, 2012 Criminal Conviction for DUI With Collision on February 12, 2012)

13 16. Respondent has subjected her license to disciplinary action under sections 490 and
14 2761, subdivision (f), and 2762, subdivision (c) of the Code in that Respondent was convicted of
15 a crime that is substantially related to the qualifications, functions, and duties of a registered
16 nurse. The circumstances are as follows:

17 a. On or about August 31, 2012, in a criminal proceeding entitled *People of the*
18 *State of California v. Aubra Diane Sandler*, in Los Angeles Superior Court, case number
19 2LT00467, Respondent was convicted on her plea of guilty of violating Vehicle Code section
20 23153, subdivision (b), driving with a blood alcohol level above .08 percent with injury to other
21 persons, a felony.

22 b. As a result of the conviction, on or about August 31, 2012, Respondent was
23 sentenced to three years summary probation, and ordered to complete a course in "Leaders in
24 Community Alternative, Inc." in lieu of 10 days in jail. Respondent was further ordered to attend
25 and complete a three-month First Offender DUI Program, pay \$1,726.40 in fees, fines, and
26 restitution, and comply with the terms of standard DUI probation.

27 c. The facts that led to the conviction are that on or about February 12, 2012, Long
28 Beach Police Officers responded to a call regarding a traffic collision with injuries. After an

1 investigation, the officers concluded that Respondent had entered an intersection on a solid red
2 light and broadsided another vehicle injuring a mother and her two daughters. All three victims
3 were taken to the hospital with injuries. Respondent admitted to the officers that she had been
4 drinking alcohol at a friend's house just before the accident. Respondent was uninjured and was
5 sitting on the curb near the accident scene. While speaking to Respondent, the Officers observed
6 that Respondent had a strong odor of alcohol about her person, bloodshot and watery eyes, and
7 her speech was heavily slurred. When asked to stand up, Respondent swayed back and forth and
8 used her arms for balance. Respondent was unable to satisfactorily complete field sobriety tests.
9 It was determined that Respondent had been driving under the influence of alcohol, had caused
10 the accident and was arrested.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Use of Alcohol in Manner Dangerous/Injurious to Self or Others)

13 17. Respondent has subjected her license to disciplinary action under sections 2762,
14 subdivision (b) of the Code in that Respondent used alcoholic beverages, to an extent or in a
15 manner dangerous or injurious to herself, or others as set forth in paragraph 16, above.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct – Theft of Narcotics)

18 18. Respondent is subject to disciplinary action for unprofessional conduct under sections
19 2761(a) and 2762(a) of the Code in that she diverted dangerous drugs and controlled substances
20 from Fountain Valley Regional Hospital and Medical Center (FVRHMC) between May 17, 2011
21 and June 7, 2011. The circumstances are set forth below.

22 19. On or about June 28, 2011, the Board received a complaint from the Director of the
23 Definitive Observation Unit (DOU) at FVRHMC informing the Board that Respondent had been
24 terminated from her employment based upon failing to follow medication management
25 guidelines, insubordination in refusing to submit to random drug screening, failure to chart
26 administration of narcotics, failure to waste doses accurately, and unexplained missing
27 medications that she removed from Pyxis, involving several patients.

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PATIENT #546

20. On or about May 28, 2011, Patient #546's physician prescribed morphine .05 x 2 mg/ml IVP PRN to be administered every 4 hours for mild pain.

21. On May 31, 2011, the Pyxis¹ machine (Pyxis) documented that Respondent removed morphine 2 mg/ml. on May 31, 2011 at 1557 hours, and wasted 1mg/ml of morphine with a witness at 1558 hours.

22. Respondent failed to document the administration of the remaining 1 mg. of Morphine in the MAR, but did document the patient complained of pain in the nursing notes.

23. On November 28, 2012, Respondent met with an investigator for the Board to discuss her treatment of this patient. During the interview, Respondent admitted that 1 mg/ml of Dilaudid that she removed from Pyxis for patient #546 was unaccounted for.

PATIENT #627

24. On or about May 30, 2011, Patient #627's physician ordered 1 mg/ml Dilaudid IVP PRN every 4 hours.

25. On or about May 30, 2011, at or about 1700 hours, Respondent removed 1 mg/ml Dilaudid and administered 0.5 mg/ml to patient #627, but failed to waste or otherwise account for the remaining 0.5 mg/ml of Dilaudid.

26. On or about May 31, 2011, at or about 0800 hours, Respondent removed .05 mg/ml Dilaudid from Pyxis for patient #627, and documented wasting .05 mg/ml Dilaudid, however the wastage occurred approximately 8 hours later.

27. On November 28, 2012, Respondent met with an investigator for the Board to discuss her treatment of patient #627. During the interview, Respondent admitted that she waited almost 8 hours before wasting the .05 mg/ml of Dilaudid for patient #627.

¹ Pyxis is the trade name for an automated single-unit dose medication dispensing system that delivers medications, typically narcotics and controlled substances, to an individual authorized to access the system. The delivery of medications is accomplished when an authorized individual enters a password (some Pyxis also require a fingerprint) known only to that individual. The medication drawer, or container, is unlocked and the medication is removed from the machine and then administered to the designated patient.

PATIENT #094

28. On or about June 5, 2011, Patient #094's physician ordered 0.5 mg/ml Dilaudid IVP PRN every 4 hours for abdominal pain:

29. On or about June 6, 2011 at 1157 hours, Respondent removed 1 mg/ml Dilaudid from Pyxis, administered 0.5 mg/ml to patient #094 at 1200 hours, but failed to waste or otherwise account for the remaining 0.5 mg/ml of Dilaudid.

30. On June 6, 2011, at approximately 1800 hours, Respondent removed 1mg/ml Dilaudid from Pyxis but failed to waste or administer the medication to patient #094.

31. On June 6, 2011, Respondent failed to waste or otherwise account for 1.5 mg/ml of Dilaudid.

32. On November 28, 2012, Respondent met with an investigator for the Board to discuss her treatment of this patient. During the interview, Respondent stated that she documented the June 6, 2011, 1852 hours administration of .05 mg/ml Dilaudid to patient #094 on the 24-hour Critical Care Flowsheet. She admitted, however, she failed to account for the remaining .05 mg/ml of Dilaudid that she removed from Pyxis for patient #094.

PATIENT #962

33. On or about June 2, 2011, Patient 962's physician ordered Dilaudid 2mg/ml IV PRN every 4 hours for moderate to severe pain. This order was written for the time frame of June 2, 2011 at 1100 hours through June 7, 2011 at 1059 hours.

34. On June 7, 2011, at approximately 1105 hours, patient #962 was administered 2 mg/ml Dilaudid by another nurse. At 1300 hours, Respondent documented administering 2 mg/ml Dilaudid to patient #962. There is not a physician's order extending the administration time frame beyond June 7, 2011 at 1059 hours, nor is there an order changing the time of administration of Dilaudid from every 4 hours to every 2 hours. If Respondent administered a dose of Dilaudid to patient #962 at 1300 hours, she did so without a physician's order. However, there is no record that Respondent actually removed this medication from Pyxis.

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1 35. On November 28, 2012, Respondent met with an investigator for the Board to discuss
2 her treatment of this patient. During the interview, Respondent admitted that she "pulled the
3 Dilaudid and handed it to a charge nurse. I told him to give it to the patient."

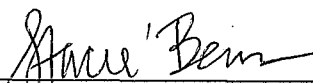
4 36. On November 28, 2012, Respondent admitted to an investigator for the Board that on
5 or about June 7, 2011, she had been asked by the staff at FVRHMC to take a drug screen and she
6 refused and was subsequently terminated from her employment at FVRHMC.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nurse License Number 609769, issued to Aubra
11 Diane Sandler;
- 12 2. Ordering Aubra Diane Sandler to pay the Board of Registered Nursing the reasonable
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions
14 Code section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.
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17 DATED: APRIL 19, 2013

18 *for* 
19 LOUISE R. BAILEY, M.ED., RN
20 Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 SD2013704864

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